

2275. Adulteration and misbranding of Chexit. U. S. v. 11 Bottles * * * (and 2 other seizure actions). (F. D. C. Nos. 22692, 22693, 23457. Sample Nos. 67567-H, 67568-H, 86876-H.)

LIBELS FILED: March 12 and 13 and June 24, 1947, District of Kansas and Western District of Wisconsin.

ALLEGED SHIPMENT: On or about March 25 and April 2, 1946, and March 25, 1947, by the United Farmers Exchange, from Council Bluffs, Iowa.

PRODUCT: *Chexit*. 11 3-pound bottles at Baldwin City, Kans., 12 1-pound bottles at Humboldt, Kans., and 61 ½-pound jars and 59 1-pound jars at Madison, Wis. Analyses disclosed that the product consisted chiefly of calcium carbonate, powdered nux vomica, poke root, ginger, fenugreek, and potassium iodide. The amount of potassium iodide in the various lots of the product ranged from 0.17 to 0.27 percent.

NATURE OF CHARGE: Adulteration, Section 501 (c), the strength of the article differed from that which it was represented to possess, since it contained less than the label declaration of 0.40 percent potassium iodide.

Misbranding, Section 502 (a), the name *Chexit* and the following statements on the label were false and misleading: "*Chexit* * * * Demulcent Anti-Acid Mixture Suggested as a demulcent anti-acid to the bowels and stomach. May be used when the need of a demulcent anti-acid is indicated. Tonic to the appetite * * * Potassium Iodide .40% * * * For Calves, Lambs, Colts and Kids—Give one (1) tablespoonful *Chexit* twice daily on their tongue, if suckling, give the dam two tablespoonfuls twice per day over feed for 2 days. May be repeated. For Sows with Suckling Pigs—Give sow one (1) tablespoonful *Chexit* twice daily in slop or mix in milk or scatter over feed for 2 days. May be repeated. Milch Cows * * * For Steers in the Feed Lot * * *." These statements represented and suggested that the article when used as directed would be effective to check disease conditions of the bowels and stomach of animals and that it was a tonic to the appetite of animals. The article when used as directed would not be effective for such purposes. The representation on the label that the article contained 0.40 percent of potassium iodide was also false and misleading, since it contained a smaller amount.

DISPOSITION: July 24 and 29 and October 28, 1947. Default decrees of condemnation and destruction.

2276. Adulteration and misbranding of prophylactics. U. S. v. 43½ Gross and 112½ Gross of Prophylactics. Tried to the court. Decree of condemnation. Product ordered released under bond. (F. D. C. No. 16888. Sample Nos. 18372-H, 18373-H.)

LIBEL FILED: July 21, 1945, District of Minnesota.

ALLEGED SHIPMENT: On or about June 19, 1945, by the Killashun Sales Division, from Akron, Ohio.

PRODUCT: 43½ gross and 112½ gross of *prophylactics* at Minneapolis, Minn. Examination of 108 samples from each of the 2 lots showed that 7.4 percent and 11.1 percent, respectively, were defective in that they contained holes.

LABEL, IN PART: "Xcello's Prophylactics," or "Silver-Tex Prophylactics."

NATURE OF CHARGE: Adulteration, Section 501 (c), the quality of the article fell below that which it purported and was represented to possess.

Misbranding, Section 502 (a), the label statement "Prophylactics" was false and misleading as applied to an article containing holes.

DISPOSITION: Gellman Brothers, Minneapolis, Minn., appeared as claimant, and on November 27, 1945, the case came on for trial before the court. At the conclusion of the testimony, the case was taken under advisement by the court, and on February 11, 1946, after consideration of the briefs and arguments of counsel, the court handed down the following opinion:

GUNNAR H. NORDBYE, *District Judge*: "The above cause came before this Court on libel proceedings pursuant to 21 U. S. C. A. § 334.

"Mr. Victor E. Anderson, United States Attorney, and Mr. Clifford F. Hansen, Assistant United States Attorney, of St. Paul, Minnesota, appeared in behalf of the United States of America; and Mr. Maurice Weinstein, of Milwaukee, Wisconsin, (Mr. Ralph Stacker, of St. Paul, Minnesota, of counsel) appeared in behalf of the claimant.